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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/755,847	01/05/2001	David Funk	41468/DBP/C664	3701
23363	7590	12/02/2004	EXAMINER	
CHRISTIE, PARKER & HALE, LLP PO BOX 7068 PASADENA, CA 91109-7068			BRANCOLINI, JOHN R	
			ART UNIT	PAPER NUMBER
			2153	

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/755,847

Applicant(s)

FUNK, DAVID

Examiner

John R Brancolini

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-6,8-12 and 14-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-6,8-12 and 14-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This action in response to amendment filed August 23, 2004.

In the amendment, claims 1, 7 and 13 were cancelled, and claims 18-20 were added, leaving claims 2-6, 8-12, and 14-20 still pending.

### ***Drawings***

The objections to the drawings are withdrawn by examiner due to amendment to the Specification.

### ***Claim Objections***

The objections to the claims are withdrawn by examiner due to the amendment of the claims.

### ***Claim Rejections - 35 USC § 103***

Claims 2-3, 5-6, 8-9, 11-12, 14-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Combar et al. (US Patent 6470386), hereinafter referred to as Combar, in view of Lahat et al (US Patent 6141126), hereinafter referred to as Lahat.

In regards to claim 18, Combar discloses an optical network arranged in a manner such that in use at least one management function in the optical network is being affected utilizing standard TCP/IP communication protocols (a user management

session is verified and forwarded by a server utilizing standard TCP/IP communication protocols, col 6 lines 22-40).

However, Combar fails to disclose the network is an optical Wavelength Division Multiplexing (WDM) Network, and the switch is optical-electrical-optical switch structure.

Lahat discloses a switch for wave division multiplexing. In the disclosure, Lahat shows that this optical switch can be utilized to manage information sent over an optical WDM network. In one embodiment, Lahat discloses the switch can take various optical inputs, transmit them across a network, and convert the signals to electrical signals. The signals are then sent to a recipient, where any further transmissions will be then converted from response electrical signal inputs to optical signals for retransmission across the network (col 5 lines 12-47). In this embodiment, a optical-electrical-optical switch is shown. Lahat teaches it would be beneficial to use this system of network switching as standard Asynchronous Transfer Mode (ATM) networks require a larger amount of physical infrastructure, which can increase the cost of the overall system (col 2 lines 17-40).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the system of Combar, which utilizes a telecommunications network, to include an optical Wavelength Division Multiplexing network with an optical switch as taught by Lahat to reduce the physical infrastructure of the system as well as possibly reduce overall cost.

In regards to claim 2, Combar discloses the optical network is arranged in a manner such that, in use, the management function is being affected on a computer located within a network element of the optical network (Fig 2 shows a customer using a personal computer to access the management function, the computer being a network element of the telecommunication [optical] network, see also col 4 lines 4-28).

In regards to claim 3, Combar discloses the management function comprises the distribution of one or more of a group consisting of alarm reports, audit logs, alarm logs, and status reports (the customer can easily access status reports, Fig 12c, see also col 1 lines 63-67)

In regards to claim 5, Combar discloses the optical network may be arranged in a manner such that, in use, the management function is being effected via an HTTP server incorporated in the network element and accessible via a conventional web browser (Fig 2 shows an outline of the telecommunications network, with items 24 [two HTTP web servers] and item 20[a personal computer with a web browser], see also col 5 lines 44-57, col 6 lines 2-5).

In regards to claim 6, Combar discloses the network element comprises a network node or an in-line amplifier (Fig 2 shows the network element for controlling the management function is a personal computer acting as a network node).

In regards to claim 19, Combar discloses a method of managing an optical network, the method comprising the step of effecting at least one management function of the optical network utilising standard TCP/IP communications protocols (a user management session is verified and forwarded by a server utilizing standard TCP/IP communication protocols, col 6 lines 22-40).

However, Combar fails to disclose the network is an optical Wavelength Division Multiplexing (WDM) Network, and the switch is optical-electrical-optical switch structure.

Lahat discloses a switch for wave division multiplexing. In the disclosure, Lahat shows that this optical switch can be utilized to manage information sent over an optical WDM network. In one embodiment, Lahat discloses the switch can take various optical inputs, transmit them across a network, and convert the signals to electrical signals. The signals are then sent to a recipient, where any further transmissions will be then converted from response electrical signal inputs to optical signals for retransmission across the network (col 5 lines 12-47). In this embodiment, a optical-electrical-optical switch is shown. Lahat teaches it would be beneficial to use this system of network switching as standard Asynchronous Transfer Mode (ATM) networks require a larger amount of physical infrastructure, which can increase the cost of the overall system (col 2 lines 17-40).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the system of Combar, which utilizes a telecommunications network, to include an optical Wavelength Division Multiplexing network with an optical switch as

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taught by Lahat to reduce the physical infrastructure of the system as well as possibly reduce overall cost.

In regards to claim 8, Combar discloses the management function is being affected on a computer located within a network element of the optical network (Fig 2 shows a customer using a personal computer to access the management function, the computer being a network element of the telecommunication [optical] network, see also col 4 lines 4-28).

In regards to claim 9, Combar discloses the management function comprises the distribution of one or more of a group consisting of alarm reports, audit logs, alarm logs, and status reports (the customer can easily access status reports, Fig 12c, see also col 1 lines 63-67).

In regards to claim 11, Combar discloses the management function is being affected via an HTTP server incorporated in the network element and accessible via a conventional web browser (Fig 2 shows an outline of the telecommunications network, with items 24 [two HTTP web servers] and item 20[a personal computer with a web browser], see also col 5 lines 44-57, col 6 lines 2-5).

In regards to claim 12, Combar discloses the network element may comprise a network node or an in-line amplifier (Fig 2 shows the network element for controlling the management function is a personal computer acting as a network node).

In regards to claim 20, Combar discloses a network element for use in an optical network, the network element comprising means for, in use, communicating using standard TCP/IP protocols to effect at least one management function in relation to the network element (a user management session is verified and forwarded by a server, or an element in the telecommunications [optical] network, utilizing standard TCP/IP communication protocols, col 6 lines 22-40).

However, Combar fails to disclose the network is an optical Wavelength Division Multiplexing (WDM) Network, and the switch is optical-electrical-optical switch structure.

Lahat discloses a switch for wave division multiplexing. In the disclosure, Lahat shows that this optical switch can be utilized to manage information sent over an optical WDM network. In one embodiment, Lahat discloses the switch can take various optical inputs, transmit them across a network, and convert the signals to electrical signals. The signals are then sent to a recipient, where any further transmissions will be then converted from response electrical signal inputs to optical signals for retransmission across the network (col 5 lines 12-47). In this embodiment, a optical-electrical-optical switch is shown. Lahat teaches it would be beneficial to use this system of network switching as standard Asynchronous Transfer Mode (ATM) networks require a larger

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amount of physical infrastructure, which can increase the cost of the overall system (col 2 lines 17-40).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the system of Combar, which utilizes a telecommunications network, to include an optical Wavelength Division Multiplexing network with an optical switch as taught by Lahat to reduce the physical infrastructure of the system as well as possibly reduce overall cost.

In regards to claim 14, Combar discloses the means for communicating comprises an SMTP server application (SMTP can be enabled to the In-Box server, col 8 lines 57-64).

In regards to claim 15, Combar discloses the means for communicating may comprise an HTTP server application (Fig 2 shows an outline of the telecommunications network, with items 24 [two HTTP web servers], see also col 5 lines 44-57, col 6 lines 2-5).

In regards to claim 16, Combar discloses the management function comprises the distribution of one or more of a group consisting of alarm reports, audit logs, alarm logs, and status reports (the customer can easily access status reports, Fig 12c, see also col 1 lines 63-67).

In regards to claim 17, Combar discloses the network element is in the form of a network node or an in-line amplifier (Fig 2 shows the network element for controlling the management function is a personal computer acting as a network node).

Claims 4,10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Combar in view of Lahat, and in further view of Martenson (US Patent 6219708).

In regards to claims 4 and 10, Combar in view of Lahat discloses an In-box server that acts as a store and forward for client designated reports, but never directly discloses the management function is being affected by the use of e-mail.

Martenson discloses a system for network resource management utilizing a network module, or element, having an instruction module that is used to translate management instructions for the network. In the Martenson system, the feature of using e-mail to affect the management function is shown where the system utilizes email to distribute system reports and fault summaries (col 16 lines 44-63). By using e-mail for directly contacting technical support, the management function is directly affected through the resulting response by the technical support. Martenson teaches this is beneficial as it both gets the customer back on-line quickly and captures vital information about the error conditions (col 16 lines 61-63).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify Combar in view of Lahat to include having the management function

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is being affected by the use of e-mail as taught by Martenson to allow both getting the customer back on-line quickly and capturing vital information about the error conditions.

### ***Response to Arguments***

Applicants arguments, summarized from Remarks:

1. Combar does not disclose a Wavelength Division Network.

In response to argument 1, the examiner agrees with applicant. However, the examiner believes that the above arguments to modify Combar as taught by Lahat does reasonably teach an optical switch for WDM network management.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

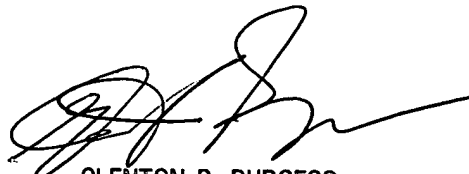
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to John R Brancolini whose telephone number is (571) 272-3948. The examiner can normally be reached on M-Th 7am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
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